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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,296	04/13/2007	Johann Magg	2004P00166WOUS	5391

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EXAMINER	
ALEXANDER, REGINALD	

ART UNIT	PAPER NUMBER
3742	

NOTIFICATION DATE	DELIVERY MODE
04/07/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

NBN-IntelProp@bshg.com

Office Action Summary	Application No.	Applicant(s)	
	10/587,296	MAGG ET AL.	
	Examiner	Art Unit	
	Reginald L. Alexander	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 February 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *14-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *14-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 14-31 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 12-25 of copending Application No. 10/587,225. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are an obvious variation of one another. The broadest interpretation of the "flexible tube connecting piece" of 10/587,296 is equivalent to the "tubular connection support" recited in 10/587,225.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 14-16, 18-27 and 29-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Fanzutti et al.

There is disclosed in Fanzutti a coffee machine for preparing coffee using coffee pads, comprising: a continuous heater 118 secured in a housing 30 with a pipe 140 for guiding water; a flexible tube connecting piece 136, 138 at each end of the pipe, the connecting piece including receiving elements 132, 134 for integrating additional components (safety valve 146, temperature sensor 124, 128); a securing means 120, 122 for securing the heater in the housing; additional receiving elements 126, 130 for integrating the additional components; wherein the heater includes heating rods 142 and connecting sleeve members 144 for holding the rods together with the pipe; and wherein the connecting pieces include an O-ring (fig. 4) for providing a sealing fit with the pipe.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fanzutti et al. in view of Roberson.

Roberson discloses that it is known in the art to use a reed switch as a water level sensing means, the sensor being in combination with a temperature sensor as well.

It would have been obvious to one skilled in the art to provide the device of Fanzutti with the reed switch taught in Roberson, in order to monitor the water level of the device.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fanzutti.

Fanzutti discloses the claimed invention except for two axially spaced O-rings. It would have been obvious to one skilled in the art to provide an additional O-ring, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Response to Arguments

Applicant's arguments filed 05 February 2010 have been fully considered but they are not persuasive.

Applicant's concerns regarding the double patenting rejection have been addressed above in the section titled "Double Patenting".

Applicant states that the top end cap of Fanzutti does not have elements for integrating additional components. And, that at most the top end cap of Fanzutti has a single receiving element for integrating a single component.

In response to this statement it should be noted that the rejection refers to elements 136 and 138 having receiving elements 132, 134. Each of these elements integrates a additional component of the coffee maker. Element 134 is connected to pressure relief valve 146. Element 132 is connected to tube 106. Each of valve 146 and tube 106 meet the broad definition of an additional component. The connecting pieces

136 and 138 additionally support sleeve members 120, 122 which surround and help mount heating elements 142 and temperature sensor 124, 128. Thus, an argument can be made that any element in contact with the connecting pieces 136, 138 and sleeve 120, 122, can be itself considered to be an additional component of the coffee machine.

In regards to the use of a plastic material, it is old and well known in the art to use such a material for its suitability in construction and cost effectiveness.

In regards to claim 22, it is the opinion of the examiner that the surface of the sleeve 120, 122, which contacts the tube, are flat.

In regards to claim 26, applicant should take note that the receiving elements 132, 134 are considered to be part of connecting pieces 136, 138, due to their contact and operation therewith. Thus, the sealing means which is apart of elements 132, 134 serve the claimed function as that recited in claim 26. This arrangement also takes effect when reviewing the arguments for claims 27 and 29

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Nordskog and Lehrke are cited for their disclosure of a flow through heater arrangement in which a connecting piece is provided at one end of the heater, the connecting piece providing support for an additional component such as a temperature sensor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Reginald L. Alexander/

Primary Examiner

Art Unit 3742